

**7-9-59 Credit union service organizations -- Limitations on providing services through other entities.**

- (1) This section applies to a credit union service organization in which a credit union organized under this chapter has an ownership interest.
- (2)
  - (a) A credit union service organization may provide a service only if the service is:
    - (i)
      - (A) listed in Subsection (2)(b); or
      - (B) approved by the commissioner in accordance with Subsection (4)(b); and
    - (ii)
      - (A) except for the extension of credit by the credit union service organization, limited primarily to:
        - (I) credit unions that hold an ownership interest in the credit union service organization;
        - (II) members of credit unions that hold an ownership interest in the credit union service organization;
        - (III) members of credit unions that contract with the credit union service organization; or
        - (IV) credit unions that contract with the credit union service organization but do not hold an ownership interest in the credit union service organization; or
      - (B) for purposes of the extension of credit by the credit union service organization, limited to members of a credit union that holds an ownership interest in the credit union service organization.
  - (b) Subsection (2)(a) applies to:
    - (i) the following checking and currency services:
      - (A) check cashing;
      - (B) coin and currency services; and
      - (C) services related to:
        - (I) a money order;
        - (II) a savings bond;
        - (III) a travelers check; or
        - (IV) the purchase and sale of United States Mint commemorative coins;
    - (ii) the following clerical, professional, and management services:
      - (A) accounting services;
      - (B) courier services;
      - (C) credit analysis;
      - (D) facsimile transmission and copying services;
      - (E) services related to conducting an internal audit for a credit union;
      - (F) locator services;
      - (G) services related to management and personnel training and support;
      - (H) marketing services;
      - (I) research services; or
      - (J) services related to a supervisory committee audit;
    - (iii) consumer mortgage loan origination;
    - (iv) the following electronic transaction services:
      - (A) automated teller machine services;
      - (B) credit card services;
      - (C) debit card services;
      - (D) data processing services;
      - (E) electronic fund transfer services;

- (F) services related to electronic income tax filings;
- (G) payment item processing;
- (H) wire transfer services; or
- (I) cyber financial services;
- (v) the following financial counseling services:
  - (A) developing and administering personnel benefit plans including:
    - (I) individual retirement accounts;
    - (II) Keogh plans; or
    - (III) deferred compensation plans;
  - (B) estate planning;
  - (C) financial planning and counseling;
  - (D) income tax preparation;
  - (E) investment counseling; or
  - (F) retirement counseling;
- (vi) fixed asset services related to the:
  - (A) management, development, sale, or lease of fixed assets; or
  - (B) sale, lease, or servicing of computer hardware or software;
- (vii) the following insurance brokerage or agency services:
  - (A) operating as an agency for sale of insurance;
  - (B) providing vehicle warranty programs; or
  - (C) providing group purchasing programs;
- (viii) the following leasing services:
  - (A) leasing of personal property; or
  - (B) real estate leasing of excess credit union service organization property;
- (ix) the following loan support services:
  - (A) debt collection services;
  - (B) loan processing, servicing, and sales; or
  - (C) sale of repossessed collateral;
- (x) the extension of credit including member-business loans;
- (xi) the following record retention, security, and disaster recovery services:
  - (A) alarm-monitoring and other security services;
  - (B) disaster recovery services;
  - (C) services related to:
    - (I) microfilm;
    - (II) microfiche;
    - (III) optical and electronic imaging; or
    - (IV) CD-ROM data storage retrieval;
  - (D) providing forms and supplies; or
  - (E) services related to record retention and storage;
- (xii) securities brokerage services;
- (xiii) operation of shared credit union branch services, including service centers;
- (xiv) student loan origination;
- (xv) travel agency services;
- (xvi) the following trust and trust-related services:
  - (A) acting as an administrator for a prepaid legal service plan;
  - (B) acting in a fiduciary capacity including as:
    - (I) trustee;
    - (II) guardian;

- (III) conservator; or
  - (IV) estate administrator; or
  - (C) trust services; or
  - (xvii) making credit union service organization investments in noncredit union service organization service providers.
- (3)
- (a) One or more credit unions organized under this chapter may form a credit union service organization on or after the day on which each credit union forming the credit union service organization obtains in accordance with this section the approval by the commissioner for the formation of the credit union service organization.
  - (b) To obtain approval from the commissioner for the formation of a credit union service organization, each credit union that is forming a credit union service organization shall file an application with the commissioner that specifies:
    - (i) whether the credit union meets the capital and surplus standards established by rule by the commissioner;
    - (ii) the services to be provided by the credit union service organization; and
    - (iii) any information required by rule by the commissioner.
  - (c) The commissioner may by rule establish the requirements for forming of a credit union service organization to ensure that:
    - (i) the credit union service organization as formed:
      - (A) has the financial capacity to provide the services described in the application requesting the formation of the credit union service organization in a safe and sound manner; and
      - (B) has the managerial expertise to provide the services described in the application requesting the formation of the credit union service organization in a safe and sound manner; and
    - (ii) any potential harm that granting the approval may have on other institutions subject to the jurisdiction of the department does not clearly outweigh the probable beneficial effect of the credit union service organization providing the services.
- (4)
- (a) A credit union service organization may provide a service that is described in Subsection (2)(b) but not listed in the application requesting the formation of the credit union service organization by filing written notice with the commissioner at least 30 days before the day on which the credit union service organization first provides the service.
  - (b) A credit union service organization may provide a service not described in Subsection (2)(b) if:
    - (i) the credit union service organization files a written request for approval to provide the service with the commissioner; and
    - (ii) the commissioner approves the credit union service organization providing that service.
  - (c) The commissioner may at any time limit the services engaged in by a credit union service organization on the basis of:
    - (i) a supervisory reason;
    - (ii) a legal reason; or
    - (iii) a safety and soundness reason.
- (5) The commissioner may conduct examinations of a credit union service organization in accordance with Section 7-1-314.
- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may make rules for purposes of this section:
- (a) defining what constitutes an ownership interest held by a credit union;

- (b) specifying the information required to be included in an application seeking to form a credit union service organization;
  - (c) specifying in accordance with Subsection (3), the requirements for forming a credit union service organization;
  - (d) specifying the procedure for obtaining approval to provide a service under Subsection (4)(a); and
  - (e) specifying the conditions under which a credit union service organization may provide a service described in Subsection (2).
- (7)
- (a) Except as provided in Subsection (7)(b), a credit union may not provide any service to a member of the credit union through:
    - (i) a person who is controlled by or is under common control with the credit union whether or not the control is exercised:
      - (A) directly; or
      - (B) indirectly through one or more intermediary controls; or
    - (ii) an entity in which the credit union holds an ownership interest.
  - (b) Notwithstanding Subsection (7)(a), a credit union may provide services to a member of a credit union:
    - (i) through a credit union service organization to the extent permitted by this section; or
    - (ii) through a loan production office to the extent those services are authorized by Section 7-1-715.
  - (c) Notwithstanding Section 7-1-103, for purposes of this section, "control" means the power, directly, or indirectly, to:
    - (i) direct or exercise a controlling influence over:
      - (A) the management or policies of an entity; or
      - (B) the election of a majority of the directors or trustees of an entity;
    - (ii) vote 20% or more of any class of voting securities of an entity by an individual; or
    - (iii) vote more than 5% of any class of voting securities of an entity by a person other than an individual.
  - (d) Nothing within this section may be interpreted as prohibiting a credit union from entering into a contract or agreement to provide services to members of the credit union if the person with whom the credit union enters into the contract agreement is not a person described in Subsection (7)(a).
- (8)
- (a) A credit union holding an ownership interest in a credit union service organization operating on May 5, 2003 is not required to file an application requesting to form that credit union service organization.
  - (b) A credit union service organization operating on May 5, 2003:
    - (i) shall provide the commissioner written notice of the services the credit union service organization provides by no later than July 1, 2003; and
    - (ii) may provide a service not described in Subsection (2)(b) on or after July 1, 2003 only if the credit union service organization has obtained approval from the commissioner in accordance with Subsection (4).

Amended by Chapter 382, 2008 General Session